

§ 302.39

§ 302.39 Standards for program operation.

The State plan shall provide that the IV-D agency will comply with the standards for program operation and the organizational and staffing requirements prescribed by part 303 of this chapter.

[41 FR 55348, Dec. 20, 1976]

§ 302.40 [Reserved]

§ 302.50 Assignment of rights to support.

The State plan shall provide as follows:

(a) An assignment of support rights, as defined in §301.1 of this chapter, constitutes an obligation owed to the State by the individual responsible for providing such support. Such obligation shall be established by:

(1) Order of a court of competent jurisdiction or of an administrative process; or

(2) Except for obligations assigned under 42 CFR 433.146, other legal process as established by State laws, such as a legally enforceable and binding agreement.

(b) The amount of the obligation described in paragraph (a) of this section shall be:

(1) The amount specified in the order of a court of competent jurisdiction or administrative process which covers the assigned support rights.

(2) If there is no court or administrative order, an amount determined in writing by the IV-D agency as part of the legal process referred to in paragraph (a)(2) of this section in accordance with the requirements of §302.56.

(c) The obligation described in paragraph (a) of this section shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(d) Any amounts which represent support payments collected from an individual responsible for providing support under the State plan shall reduce, dollar for dollar, the amount of his obligation under this section.

(e) No portion of any amounts collected which represent an assigned support obligation defined under §301.1 of this chapter may be used to satisfy a medical support obligation unless the

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court or administrative order designates a specific dollar amount for medical purposes.

[64 FR 6248, Feb. 9, 1999, as amended at 68 FR 25303, May 12, 2003]

§ 302.51 Distribution of support collections.

The State plan shall provide as follows:

(a)(1) For purposes of distribution in a IV-D case, amounts collected, except as provided under paragraphs (a)(3) and (5) of this section, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

(2) In title IV-A and title IV-E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, the IV-D agency may round off the converted amount to whole dollar amount for the purpose of distribution under this section and §302.52 of this part.

(3)(i) Except as provided in paragraph (a)(3)(ii), amounts collected through Federal tax refund offset must be distributed as arrearages in accordance with §303.72 of this chapter, and section 457 of the Act;

(ii) Effective October 1, 2009, or up to a year earlier at State option, amounts collected through Federal tax refund offset shall be distributed in accordance with §303.72 of this chapter and the option selected under section 454(34) of the Act.

(4)(i) Effective October 1, 1998 (or October 1, 1999 if applicable) except with respect to those collections addressed under paragraph (a)(3) of this section and except as specified under paragraph (a)(4)(ii) of this section, with respect to amounts collected and distributed under title IV-D of the Act, the date of collection for distribution purposes in all IV-D cases is the date of receipt in the State disbursement unit established under section 454B of the Act.

(ii) If current support is withheld by an employer in the month when due, and received by the State in a month other than the month when due, the date of withholding may be deemed to be the date of collection.

(iii) When the date of collection pursuant to this subparagraph is deemed to be the date the wage or other income was withheld, and the employer fails to report the date of withholding, the IV-D agency must reconstruct that date by contacting the employer or comparing actual amounts collected with the pay schedule specified in the court or administrative order.

(5)(i) Except as provided in paragraph (a)(5)(ii), a State must pay to a family that has never received assistance under a program funded or approved under title IV-A or foster care under title IV-E of the Act and to an individual who is not required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7 the portion of the amount collected that remains after withholding any annual \$25 fee that the State imposes under §302.33(e) of this part.

(ii) If a State charges the noncustodial parent the annual \$25 fee under §302.33(e) of this part, the State may retain the \$25 fee from the support collected after current support and any payment on arrearages for the month under a court or administrative order have been disbursed to the family provided the noncustodial parent is not required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7.

(b) If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under section 403(a)(8) of the Act for the current month and all past months.

(c)(1) The amounts collected by the IV-D agency which represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the State under

42 CFR 433.146 shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154.

(2) When a family ceases receiving assistance under the State's title XIX plan, the assignment of medical support rights under section 1912 of the Act terminates, except for the amount of any unpaid medical support obligation that has accrued under such assignment. The IV-D agency shall attempt to collect any unpaid specific dollar amounts designated in the support order for medical purposes. Under this requirement, any medical support collection made by the IV-D agency under this paragraph shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154.

[64 FR 6248, Feb. 9, 1999, as amended at 68 FR 25303, May 12, 2003; 73 FR 74920, Dec 9, 2008]

§302.52 Distribution of support collected in Title IV-E foster care maintenance cases.

Effective October 1, 1984, the State plan shall provide as follows:

(a) For purposes of distribution under this section, amounts collected in foster care maintenance cases shall be treated in accordance with the provisions of §302.51(a) of this part.

(b) The amounts collected as support by the IV-D agency under the State plan on behalf of children for whom the State is making foster care maintenance payments under the title IV-E State plan and for whom an assignment under section 471(a)(17) of the Act is effective shall be distributed as follows:

(1) Any amount that is collected in a month which represents payment on the required support obligation for that month shall be retained by the State to reimburse itself for foster care maintenance payments. Of that amount retained by the State as reimbursement for that month's foster care maintenance payment, the State IV-D agency shall determine the Federal government's share so that the State may reimburse the Federal government to the extent of its participation in financing of the foster care maintenance payment.

(2) If the amount collected is in excess of the monthly amount of the foster care maintenance payment but not